

02-029

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KS. DISTRICT COURT
THIRD JUDICIAL DIST

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IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS
Division 5

STATE OF KANSAS, *ex rel.*)
CARLA J. STOVALL, Attorney General,)
)
Plaintiff,)

v.)

Case No. 02.C.1376

CONSUMER INSIGHT, INC.)
d/b/a BUSINESS INSIGHT)
)
Defendant.)

(Pursuant to K.S.A. Chapter 60)

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 11 day of Oct, 2002, comes before the Court the Journal Entry of Consent Judgment entered into between the parties, pursuant to K.S.A. 50-632(b). Plaintiff, State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, appears by and through James R. McCabria, Assistant Attorney General. Defendant Consumer Insight, Inc., d/b/a Business Insight, appears by and through counsel, William E. Raney, Copilevitz & Canter, LLC. There are no other appearances.

WHEREUPON, the parties advise the Court they have stipulated and agree to the following matters:

1. Carla J. Stovall is the Attorney General of the State of Kansas.
2. The Attorney General's authority to bring this action is derived from statutory and common law of Kansas, specifically, the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*

3. Defendant Consumer Insight, Inc., d/b/a Business Insight, is a Kansas corporation with its principal place of business being located at 200 West Douglas, Suite 250, Wichita, KS 67202.

4. Defendant is a supplier within the definition of K.S.A. 50-624(i) and has engaged in consumer transactions in Kansas within the definitions of K.S.A. 50-624(c).

5. The nature of Defendant's business is to provide telemarketing services on behalf of the companies with which it contracts for services.

6. Defendant admits the Court has personal and subject matter jurisdiction.

7. The Attorney General alleges Defendant, and Defendant specifically denies, that Defendant engaged in the following acts and practices which are deceptive and/or unconscionable and violate the Kansas Consumer Protection Act:

(a) Defendant caused a telemarketing call to be placed to the residence of a Kansas consumer on October 4, 2000, using a predictive dialing device. When the consumer answered the call, he heard a long silence with no operator ever responding to him. The supplier acknowledges that a "passed call" rate of 2% was established during the telephone campaign which resulted in this particular call being made to the Kansas consumer. This transaction violated K.S.A. 50-670(b)(6) which requires that "a live operator or an automated dialing announcing device shall answer the line within five seconds of the beginning of the call."

(b) Defendant caused a telemarketing call to be made to the residence of a Kansas consumer on October 6, 2000, after the consumer had requested on October 4, 2000, that his number be placed on the Defendant's do not call list.

8. Defendant agrees to this Consent Judgment without trial or adjudication of any issue of fact or law.

9. Defendant agrees to refrain from and to be permanently enjoined from engaging in acts and practices described in paragraph seven above in violation of the Kansas Consumer

Protection Act. Defendant agrees that engaging in acts or similar acts after the date of this Consent Judgment shall constitute a violation of this Order.

9. The provisions of this Consent Judgment will be applicable to Defendant, and every employee, agent or representative of Defendant.

10. Defendant agrees to be permanently enjoined from entering into, forming, organizing or reorganizing into any partnership, corporation, sole proprietorship or any other legal structures, for the purpose of avoiding compliance with the terms of this Consent Judgment.

11. Defendant agrees to pay \$2,000.00 in civil penalties and investigative fees and expenses to the "Office of the Attorney General" of the State of Kansas. Payment shall be by cashier's check and shall be delivered to the Attorney General of the State of Kansas at the time of signing this Consent Judgment.

14. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Consent Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations thereof.

15. If any portion, provision or part of this Consent Judgment is held to be invalid, unenforceable, or void for any reason whatsoever, that portion shall be severed from the remainder and shall not affect the validity or enforceability of the remaining provisions, portions or parts.

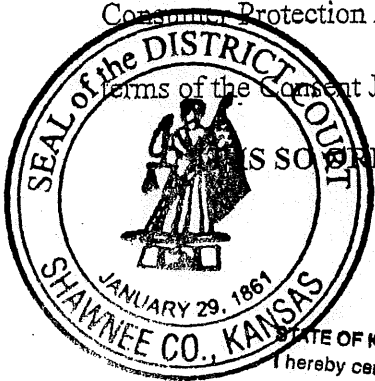
16. Compliance with this Consent Judgment does not relieve Defendant of any obligation imposed by applicable federal, state or local law, nor shall the Attorney General be precluded from taking appropriate legal action to enforce civil or criminal statutes under her jurisdiction.

17. The parties understand this Consent Judgment shall not be construed as an approval of or sanction by the Attorney General of the business practices of Defendant nor shall Defendant represent the decree as such an approval. The parties further understand that any failure by the State of Kansas or by the Attorney General to take any action in response to any information submitted pursuant to the Consent Judgment shall not be construed as an approval of or sanction of any representations, acts or practices indicated by such information, nor shall it preclude action thereon at a later date.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the stipulation and agreement of the parties contained herein are adopted and approved as the findings of fact and conclusions of law of the Court and any monies owed hereunder by Defendant immediately become a judgment upon filing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant Consumer Insight, Inc., d/b/a Business Insight, and in favor of Plaintiff in the amount of \$2,000.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, and the provisions of K.S.A. 50-632(b), the Court hereby approves the terms of the Consent Judgment and adopts the same as the Order of the Court.



IT IS SO ORDERED.

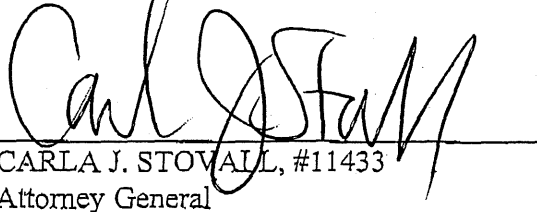
JAMES M McNEESH
 Judge of the District Court

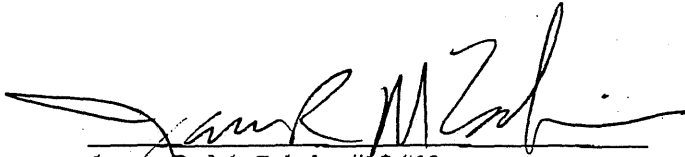
STATE OF KANSAS, COUNTY OF SHAWNEE, S.S.
 I hereby certify the above and foregoing to be
 a true and correct copy, the original of which
 is filed and entered of record in the court
 Dated 10/11/02

[Signature]
 CLERK of the DISTRICT COURT
 DEPUTY

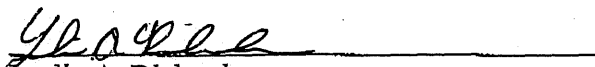
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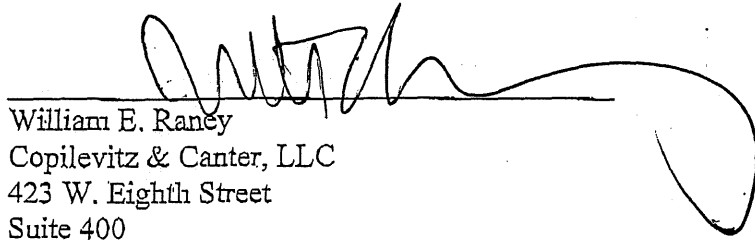
PREPARED AND APPROVED BY:


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APPROVED BY:


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Defendant


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